IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated:- 26.09.2006

Coram:-

The Hon'ble Mr. Justice P.SATHASIVAM
and
The Hon'ble Mr. Justice S.TAMILVANAN

Writ Appeal No.1122 of 2006

M.Pandian ... Appellant

Vs.

1.The Principal,
Regional Engineering College,
Trichirapalli-15.

2.The Board of Governors,
Regional Engineering College,
Tiruchirapalli, rep., by
Principal and Member Secretary
of Board of Governors,
Tiruchirapalli-15. ... Respondents

Writ appeal filed under Clause 15 of the Letters Patent against the order dated 06.01.2006 made in W.P.No.10889 of 1999 issue a Writ of Certiorari to call for the records of the Principal, REC Engineering College, Tiruchi, the first respondent herein made in his proceedings ROC.17329/A2/94 DT. 7.4.1995 and of the Board of Governors, 2nd respondent herein modifying the order of the Principal into one of compulsory retirement in RC.A2/17329/94 dt. 12.1.1999 and to quash the said orders to award costs to the petitioner.

For Appellant : Mr.R.Ganesan

JUDGMENT

(Judgment of the Court was delivered by P.SATHASIVAM, J.)

The above writ appeal is filed against the order of the learned single Judge dated 06.01.2006 made in W.P.No.10889 of 1999, in and by which, the learned single Judge, after finding no merit for interference, dismissed the writ petition.

2. Heard the learned counsel appearing for the appellant.

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3. The appellant M.Pandian while working as Draughtsman Grade-I in Regional Engineering College, Trichirapalli, has committed certain violations/offences and based on which, two charges have been framed. The first charge was that the petitioner has made an attempt with mala fide intention to create a bomb scare to disturb the annual day function on 08.04.1994 and to create disturbance, tranquility and peace of the institution, by which, he brought bad name to the institution, which is contrary to the Rule 11(2) of the Tamil Nadu Government Servants Conduct Rules. The second charge was that the appellant is in the habit of writing letters regularly to the press and periodical publication by commenting upon the function of the higher-ups without obtaining previous sanction from the authorities concerned, which is also contrary to Rule 11 of the Tamil Nadu Government Servants Conduct Rules of Regional Engineering College,Tiruchirapalli. Since his explanation was not acceptable, Dr.P.Subramanian, Head of the Department of Chemical Engineering, Regional Engineering college, Trichirapalli, has been appointed as Enquiry Officer and the appellant was directed to appear before him to substantiate his case for the charges levelled against him. Though initially he questioned the appointment of the enquiry officer, the fact remains that he participated in the enquiry. After considering the materials placed on the side of the management and the defence taken by the delinquent, the enquiry officer has concluded that both the charges were proved beyond doubt. Based on the report of the enquiry officer, The Principal, Regional Engineering College, Trichirpalli, by proceedings dated 07.04.1995, passed an order dismissing the appellant from service with immediate effect.

4. Aggrieved by the order of the original authority, the appellant preferred an appeal before the Board of Governors. The appellate authority, considering his length of service and past record, modified the punishment from dismissal to compulsory retirement.

5. Aggrieved by the order of the appellate authority, the appellant has filed W.P.No.10889 of 1999 before this Court. The learned single Judge, by impugned order dated 06.01.2006, after finding that there is no substance in the claim that the enquiry officer was biased and concurred with the conclusion arrived at by the original and appellate authorities, dismissed the writ petition. In the same order, the learned single Judge permitted the writ petitioner to make a representation and also directed the management to consider the payment of salary for a period of one year and five months. Questioning the same, the petitioner has filed the present writ appeal.

6. Even before us, the learned counsel for the appellant contended that the enquiry officer was biased and the disciplinary authority ought not to have accepted the report of the enquiry officer. He also submitted that in any event, the punishment imposed on the appellant, is excessive and disproportionate to the charges levelled against him.

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7. We have carefully considered the above submissions with reference to the orders passed by the original and appellate authorities as well as the order of the learned single Judge.

8. Coming to the objection relating to the enquiry officer, the factual conclusion arrived at by the learned single Judge shows that there is no acceptable evidence against the enquiry officer to show that he was biased at any point of time. In fact, in spite of such objection by the appellant regarding the enquiry being conducted by one Dr.P.Subramanian, Head of the Department of Chemical Engineering, Regional Engineering College, Tiruchirappalli, he participated in the enquiry. A perusal of the enquiry report amply shows that he cross-examined the witnesses examined on the side of the Department. In such circumstances, the contention relating to the enquiry officer viz., that he was biased against him, cannot be accepted.

9. Coming to the merits of the charges levelled against him, the Department has examined five witnesses on their side and they are Telephone Operator, Security Officer, Sergeants and Security Guard. We have already referred to the fact that the appellant had cross examined the above witnesses. Based on their evidence and the circumstances as well as the documents Exs.1-A, 1-B, 2 and 3, the enquiry officer has concluded that the substantial evidence produced by the management are really convincing and submitted a report to the same. The order of the original authority as well as the appellate authority clearly shows that they considered the gravity of the charges, the enquiry report and after considering the same, the original authority imposed a punishment of dismissal, which was modified by the appellate authority viz., Board of Governors to compulsory retirement. The order of the learned single Judge shows that no serious arguments was advanced questioning the orders passed by the disciplinary and appellate authority. Even otherwise, on going through those orders, we concur with the conclusion arrived at by the learned single Judge. In the absence of any other contra materials, we are of the view that the conclusion arrived at by both the authorities and the order of the learned single Judge cannot be interfered with lightly. As a matter of fact, the learned single Judge, after finding that there is no merit in the writ petition and after dismissal, taking note of the fact that the compulsory retirement was given effect from 12.01.1999 and taking note of the fact that if the petitioner continued in service, he would have retired only on 30.06.2000 and based on the same, permitted the petitioner to make a representation and also directed the management to consider and pass appropriate orders, if such representation is made.

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10. Looking at any angle, we do not find any valid ground for interference. Consequently, the writ appeal fails and the same is dismissed.

Sd/-
Asst. Registrar.

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Sub Asst. Registrar.

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To
1. The Principal and Member Secretary of Board of Governors,
   Regional Engineering College,
   Trichirapalli-15.

2. The Principal,
   Regional Engineering College,
   Trichirapalli-15.

W.A.No.1122 of 2006

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